

## REMARKS/ARGUMENTS

The Office Action of February 9, 2005 has been carefully reviewed and this response addresses the Examiner's concerns stated in the Office Action. All objections and rejections are respectfully addressed.

Examiner states in paragraph 0.1 that claims 1-37 are still pending in the application. Examiner has, in paragraph 0.2, withdrawn rejections under 35 U.S.C. § 101 and § 112 and objections of record are withdrawn in response to Applicants' amendment. Examiner has, in paragraph 0.3, maintained the allowability of claim 29. Examiner has allowed claims 28-34, and maintained the prior art rejections of the rest of the pending claims in response to Applicants' amendment. Applicants have therefore amended claims 1, 3-5, 7, 9, 11, 12, 14, 16, 18, 20, 25, and 37 to depend, directly or indirectly, from allowed claim 28, which puts those claims in condition for immediate allowance. Claim 28 was amended to delete the phrase "capable of". Claims 2, 6, 8, 10, 13, 15, 17, 19, 21-24, 26, 27, 35, and 36 have been cancelled without prejudice.

In view of the allowability of Applicants' amended claims, Applicants respectfully request Examiner to withdraw objections and rejections in light of the amended claims herein presented. Applicants do not believe, however, that Examiner's previously and newly cited art render Applicants' rejected claims unpatentable, and Applicants therefore reserve the right to file a continuation based on the rejected claims.

### *Claim Objections*

On page 3, paragraph 3 of the Office Action, Examiner has objected to claims 1 and 28, e.g., as claims *in passim*. Examiner states that it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. Examiner states that it does not constitute a limitation in any patentable sense (*In re Hutchinson*, 69 USPQ 138). Although Applicants disagree with Examiner's position that the terminology "capable of" is not a positive limitation, and respectfully point out that *In re Hutchinson* states that the terminology "adapted for" does not constitute a limitation in any

patentable sense, Applicants have amended claim 28 to remove that terminology. As previously stated, claim 1 has been amended to depend from allowed claim 28, and is therefore allowable.

***Conclusion***

Independent claims 28 and 29 have been allowed. All remaining dependent claims -- 1, 3-5, 7, 9, 11, 12, 14, 16, 18, 20, 25, 30-34, and 37 -- are believed to depend, either directly or indirectly, upon allowed independent claims 28 and 29, and are therefore also in condition for allowance.

The Commissioner for Patents is authorized to charge additional fees or credit overpayment to Deposit Account No. 03-2410, Order No. 12078-140.


The following information is presented in the event that a call may be deemed desirable by the Examiner:

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Respectfully submitted,  
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Date: April 8, 2005

By:

  
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